

Chapter 9.50

PROHIBITION OF AGGRESSIVE SOLICITING

Sections:

9.50.010 Definitions.

9.50.020 Prohibition of Aggressive Soliciting.

9.50.030

Demand for Services.

9.50.040

Free Speech.

9.50.010 Definitions.

A. GENERAL DEFINITION: For the purpose of this ordinance, an individual (solicitor) coerces, threatens, hounds, or intimidates another (solicitee) when:

1. The solicitor's conduct would cause a reasonable person in the position of the solicitee to fear for his or her safety; or
2. The solicitor intentionally blocks the path of the solicitee; or
3. The solicitor persists in following the solicitee closely, while the solicitor continues to demand money or other thing of value, after the solicitee has informed the solicitor by words or conduct that the solicitee does not want to give money or other thing of value to the solicitor to which the person demanding payment is not entitled under law.

B. SOLICIT - DEFINED. For purposes of this ordinance, "solicit" means to ask for money or goods as a charity, whether by words, bodily gestures, signs, or other means.

C. SOLICITOR - DEFINED. For purposes of this ordinance, "solicitor" is one who solicits as defined in section 9.50.010(B).

D. FEAR FOR SAFETY - DEFINED. The following facts, among others, may be considered in deciding whether a reasonable person would be caused to fear for his or her safety:

1. The occurrence of threatening gestures or other threatening conduct of the solicitor, including following the solicitee.
2. The proximity of the solicitor to the solicitee and the duration of the solicitation.
3. The making of physical contact with the solicitee.

E. INTENTIONALLY BLOCK - DEFINED. For the purposes of this ordinance, "intentionally block" means to walk, stand, sit, lie, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or driver of a vehicle to take evasive action to avoid physical contact. (Ord. 4767, 1992.)

9.50.020 Prohibition of Aggressive Soliciting.

It shall be unlawful for any person on the streets, sidewalks, or other places open to the public, whether publicly or privately owned, to intentionally coerce, threaten, hound, or intimidate another person for the purpose of soliciting alms. (Ord. 4767, 1992.)

9.50.030 Demand for Services.

This ordinance is not intended to proscribe any demand for payment for services rendered or goods delivered. (Ord. 4767, 1992.)

9.50.040 Free Speech.

This ordinance is not intended to restrict the exercise of protected free speech. (Ord. 4767, 1992.)

EXHIBIT 1

State Penal Code Section 647, subsection (c):

“Every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor: ...

(c) Who accosts other person in any public place or in any place open to the public for the purposes of begging or soliciting alms.”

State Penal Code Section 647c:

“Every person who willfully and maliciously obstructs the free movement of any person on any street, sidewalk, other public place or on or in any place open to the public is guilty of a misdemeanor.

Nothing in this section affects the power of a county or a city to regulate conduct upon a street, sidewalk, or other public place or on or in a place open to the public.”

Chapter 9.97

SITTING OR LYING ON SIDEWALKS AND PASEOS ALONG CERTAIN DOWNTOWN PORTIONS OF STATE STREET

Section:

9.97.010 Sitting or Lying on Public Sidewalks in Certain Downtown Areas of State Street.

9.97.010 Sitting or Lying on Public Sidewalks in Certain Downtown Areas of State Street.

A. **Prohibition.** No person shall sit or lie down upon a public sidewalk or public paseo or upon a blanket, chair, stool, or any other object placed upon a public sidewalk or public paseo, during the hours between 7:00 a.m. and 9:00 p.m. along the first thirteen (13) blocks of State Street from Cabrillo Boulevard to and including the 1300 block of State Street.

For the purposes of this subsection (A), the terms "public sidewalk or public paseo" shall include those public pedestrian sidewalks or public paseos which serve as access to and from State Street and the City parking facilities adjacent to State Street within the designated blocks, which shall also specifically include the area known as "Storke Placita".

B. **Exceptions.** The prohibitions of Subsection A shall not apply to any person or persons:

1. who is sitting or lying down on a public sidewalk due to a medical emergency;
2. who, as the result of a disability, utilizes a wheelchair, walker, or similar device to move about the public sidewalk;
3. who is operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a street use permit issued pursuant to Chapter 9.95 of this Title or who is participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on public sidewalk pursuant to a street use or other applicable parade permit issued by the City in accordance with this Code.

Nothing in any of these exceptions shall be construed to permit any conduct which is otherwise prohibited by this Code.

C. **Scope.** Nothing herein shall be deemed to apply the requirements of subsection (A) to the following:

1. a person who is sitting on a chair, wall, or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner for such purposes or;
2. a person who is sitting on a public sidewalk within a bus stop zone while waiting for public transportation.

D. **Prior Warning.** No person shall be prosecuted for a violation of this Chapter unless the person engages in conduct prohibited by this Chapter after having been notified by a law enforcement officer that the conduct violates this Chapter.

(Ord. 5009, 1997.)

Chapter 9.98

PEDESTRIANS BLOCKING PUBLIC SIDEWALKS

Sections:

9.98.010 Unlawful.

9.98.020 Parade Viewing Excepted.

9.98.030 Penalty for Violation.

9.98.010 Unlawful.

No person shall stand or sit in or upon any street, sidewalk or crosswalk in the City in any manner so as to hinder or obstruct the free passage of pedestrians thereon, or to annoy or molest such pedestrians. (Ord. 3162 §1, 1966.)

9.98.020 Parade Viewing Excepted.

This chapter shall not apply to persons engaged in viewing a parade duly and regularly permitted by the City. (Ord. 3162 §2, 1966.)

9.98.030 Penalty for Violation.

Any person who violates the provisions of this chapter is deemed guilty of a misdemeanor and shall be punished by a fine of not exceeding five hundred dollars (\$500.00) or imprisonment for a term of not exceeding six (6) months, or by both such fine and imprisonment. (Ord. 3162 §3, 1966.)

Chapter 9.68

INJURING OR INTERFERING WITH PROPERTY

Sections:

9.68.010 City Fixtures - Damaging - Misdemeanor.

9.68.020 City Fixtures - Railroad Crossings.

9.68.030 Stakes and Markers - Interference.

9.68.040 Streets, Gardens, Plazas, Etc. - Injuring, Etc.

9.68.050 Trees - Cutting, Breaking, Etc.

9.68.060 City-Owned Parking Lots and Structures.

9.68.010 City Fixtures - Damaging - Misdemeanor.

Every person who unlawfully displaces, injures or damages any warning signs, or lampposts, or any fixtures or appurtenances thereof, upon any street or sidewalk within the City, shall be guilty of a misdemeanor. (Prior Code §32.7.)

9.68.020 City Fixtures - Railroad Crossings.

It shall be unlawful for any person wilfully and maliciously to take down, raise up, molest, injure or in any way impair the efficiency or proper working of any gate, bar or rail, the purpose of which is public protection, now erected or that may hereafter be erected at any grade crossing of any railroad in the City. (Prior Code §32.18.)

9.68.030 Stakes and Markers - Interference.

It shall be unlawful for any person without the consent of the owner, if the same be upon private property, otherwise the consent of the City Engineer, to displace, remove or destroy, or in any manner interfere with any survey stakes, bench marks, grade stakes, block monuments or any other such marks or monuments. (Prior Code §32.49.)

9.68.040 Streets, Gardens, Plazas, Etc. - Injuring, Etc.

No person shall, in any manner, wilfully injure or deface any part of any street of the City, or any of the fixtures or appurtenances thereof, or any part of the garden or plaza connected with such streets or any part of the fixtures or appurtenances of such garden plaza. (Prior Code §32.50.)

9.68.050 Trees - Cutting, Breaking, Etc.

It shall be unlawful for any person to cut, break or mutilate any tree which is the property of another within the corporate limits of the City. (Prior Code §32.51.)

9.68.060 City-Owned Parking Lots and Structures.

A. PROHIBITION. No person shall enter or remain in any City owned or operated parking lot or parking structure except to park a vehicle therein and to exit the lot or structure or to enter a lot or structure in order to retrieve any parked vehicle and to depart therefrom or to use the restroom facilities and immediately exit the structure or except pursuant to a permit issued by the City.

B. NOTICE. The Director of Public Works shall post a notice describing the requirements of the above paragraph at appropriate entrances to all City owned or operated parking lots and structures. (Ord. 4908, 1995; Ord. 4421, 1986.)

EXHIBIT

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Chapter 9.140

SOLICITATION OF EMPLOYMENT, BUSINESS OR CONTRIBUTIONS FROM STREETS

Sections:

9.140.010 Definitions.

9.140.015 Legislative Purpose.

9.140.020 Prohibition of Solicitation in Public Roadway.

9.140.010 Definitions.

The following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning:

A. **BUSINESS.** Any type of product, goods, service, performance or activity which is provided or performed or offered to be provided or performed in exchange for money, labor, goods, or any other form of consideration.

B. **EMPLOYMENT.** The service, industry or labor performed by a person for wages or other compensation or under any contract of hire written or oral, express or implied.

C. **OCCUPANT.** A person who occupies a vehicle.

D. **PEDESTRIAN.** As defined in California Vehicle Code Section 467 as the same now reads or may hereafter be amended.

E. **PERSON.** Any individual, company, corporation, association, business or other legal entity.

F. **ROADWAY.** That portion of the street which is improved, designed or ordinarily used exclusively for vehicular travel.

G. **SOLICIT.** Any request, offer, enticement, or action which announces the availability for or of employment, the sale of goods, or a request for money or other property, or any request, offer, enticement or action which seeks to purchase or secure goods or employment, or to make a contribution of money or other property. As defined herein, a solicitation shall be deemed complete when made, whether or not an actual employment relationship is created, a transaction is completed, or an exchange of money or other property takes place.

H. **STREET.** A way or place of whatever nature, publicly maintained and open to the use of the public for the purpose of vehicular travel. For the purposes of this chapter, street includes highway and any parking area or lot owned or operated by the City of Santa Barbara or the Santa Barbara Redevelopment Agency.

I. **VEHICLE.** As defined in California Vehicle Code Section 670 as the same now reads or may hereafter be amended. (Ord. 5414, 2007; Ord. 5067, 1998.)

9.140.015 Legislative Purpose.

The purpose of this chapter is to protect the health and welfare of the general public and to promote safer and more efficient traffic flow by reasonably regulating the time, place, and manner of the solicitation of employment, business, or contributions of money or other property from pedestrians and occupants of vehicles on public streets. These regulations are intended to be content neutral and are not intended to restrict the right of free speech or alternative channels of such communication in other areas. (Ord. 5414, 2007.)

9.140.020 Prohibition of Solicitation in Public Roadway.

A. **SOLICITATIONS BY PEDESTRIANS.** It shall be unlawful for any person, while located in any portion of the public roadway to solicit (or attempt to solicit) employment, business or contributions of money or other property from any person traveling in a vehicle along a public roadway unless the vehicle is legally parked or stopped within the roadway.

B. **SOLICITATIONS FROM A VEHICLE.** It shall be unlawful for any person while the occupant of a vehicle that is not legally parked or stopped within a roadway, to solicit (or attempt to solicit) employment, business or contributions of money or other property from a person who is located within a public right-of-way including, but not limited to, any street, roadway, sidewalk, parkway, alley or driveway.

C. **YANONALI STREET.** This section shall not apply to that portion of the south side of Yanonali Street (approximately 170 feet in length) between the Laguna Channel and the west gate drive-way entrance to the City's Corporation Yard Annex at 401 East Yanonali Street, as such area is more specifically designated on signs posted at that location. (Ord. 5414, 2007; Ord. 5067, 1998.)

Chapter 9.48

COMMERCIAL USE OF CITY STREETS

Section:

9.48.010 Commercial Use of City Streets.

9.48.010 Commercial Use of City Streets.

A. **GENERALLY.** It shall be unlawful for any person, whether acting as principal, agent, clerk, employee, or otherwise, to use any public street, public parking lot, or public sidewalk in the City for the purpose of selling, vending, offering for sale or soliciting or receiving orders for the sale of any goods, wares or merchandise.

B. **SALE OF NEWSPAPERS.** Notwithstanding subsection A hereof, nothing herein shall prohibit any person from selling or offering for sale newspapers, magazines and periodicals upon any of the public sidewalks of the City in the present customary and usual manner of selling and offering for sale of newspapers, magazines, and periodicals in the City.

C. **EXEMPTION FOR SIDEWALK SALES, FARMERS' MARKETS, AND SIDEWALK CAFE TABLES.** Notwithstanding subsection A hereof, an individual or an organization may, upon the issuance of a permit by the Director of Public Works in accordance with the requirements of this Chapter and the administrative regulations adopted pursuant hereto, use a public street or sidewalk in the City for the following limited purposes:

1. **Sidewalk Sales.** A retail business licensed to do business at a location within the City may conduct a sale of merchandise on a City sidewalk under the following conditions:

- a. the sale occurs only on a public sidewalk immediately adjacent to the retail business; and
- b. the retail business does not conduct such sidewalk sales for more than a total of ten (10) days for each calendar year provided, however, that those businesses within a two (2) block radius of a construction project which impacts pedestrian or vehicular access to the City block within which the business is located for a period exceeding fourteen (14) consecutive days may be allowed up to twenty (20) days for sidewalk sales during the year in which the construction project is undertaken.

2. **Farmers' Markets.** An individual or an organization may use a public street or City parking lot for the purpose of conducting a Certified Farmers' Market [as defined and provided for in Title 3, Chapter 3 of the California Code of Regulations] under the following conditions:

- a. the merchandise offered for sale at the Farmers' Market is allowed to be sold at a Certified Farmers' Market; and
- b. the use of the street or public parking lot is authorized by and pursuant to a written license agreement between the City and the Market sponsor, which license agreement limits the Market to a specified day or days of the week and to certain limited hours; and,
- c. the vendors of merchandise at the Farmers' Market are authorized to conduct such sales by the organization sponsoring the Market and entering into the license agreement with the City.

3. **Limited Nonprofit Sidewalk Sales.** In connection and concurrent with a Parade or Event (as permitted and defined in Municipal Code Section 9.12.020), which Parade or Event is sponsored by a nonprofit entity (as evidenced by tax-exempt status under state and federal tax laws), a public sidewalk may be used for the limited merchandising of items or services under the following conditions:

- a. the sidewalk sales may occur for a period not to exceed five (5) days in any calendar year, and the sales must be concurrent with the associated Parade or Event; and,
- b. the location of any booth or table used by a sidewalk vendor under this subsection shall be at a specific location approved in advance by the City; and,
- c. the net proceeds received by the nonprofit corporation from such sales are to be devoted exclusively for the benefit of the sponsoring nonprofit organization(s); and,
- d. the persons conducting such sales are authorized in writing to do so by the nonprofit organization sponsoring the event; and,
- e. for the purposes of this subsection, the word "concurrent" shall be defined as occurring within the same calendar week (Sunday through Saturday).

4. **Sidewalk Sales in Connection with a Reserved Park Event.** A public street or sidewalk immediately adjacent to a City park facility may be used for the limited merchandising of items under the following conditions:

- a. the person or organization sponsoring the merchandising is a nonprofit entity, and it has reserved the adjacent park facility for an event pursuant to the requirements of Santa Barbara Municipal Code Chapter 15.05 and 15.16; and,
- b. the sales occur only during the time the park is being used for the reserved event; and,
- c. the persons conducting such sales are authorized in writing to do so by the nonprofit sponsoring the event; and
- d. the net proceeds received by the nonprofit corporation from such sales are to be devoted exclusively for the benefit of the sponsoring nonprofit organization.

5. **Sidewalk Cafe Tables Under Chapter 9.95.** For the placement of sidewalk cafe tables in accordance with Santa Barbara Municipal Code Chapter 9.95.

D. SIDEWALK MERCHANDISING REGULATIONS AND PERMITS. The City Administrator, acting by and through the Director of Public Works, is hereby directed to prepare an appropriate administrative process (along with related administrative regulations) for the City's acceptance, review, and processing of applications for the issuance of sidewalk merchandising permits, as such permits are allowed by and consistent with the requirements of this Section. (Ord. 5350, 2005; Ord. 5236, 2002; Ord. 4843, 1993; Ord. 4751, 1992; Ord. 3880, 1976; Ord. 3852, 1976; prior Code §32.23.)